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OLL 85-3400
4 November 1985

MEMORANDUM FOR: Director, Office of Security
Chief, Legislative Liaison, IC Staff
Deputy Director, Office of Information & Technology Management

FROM: [redacted] STAT
Legislation Division
Office of Legislative Liaison

SUBJECT: Update on Computer Security Legislation

REFERENCE: Memo to Director, Office of Security, from [redacted] dated 16 July 1985, same subject STAT

1. The purpose of this memo is to provide an update on the status of H.R. 2889, the Computer Security Act of 1985. You may recall that this legislation was introduced by Representatives Glickman and Brooks on 27 June and referred jointly to the House Committees on Science and Technology and Government Operations. As originally introduced, the bill provided that the National Bureau of Standards shall establish and conduct a computer security research program for the federal government and develop guidelines for use by federal agencies in training their employees in computer security awareness and good security practices. The bill also provided that the details and scope of the training would be prescribed by OMB.

2. In response to a request by Congressman Brooks, we sent a letter on 19 September 1985 to the Congressman containing our views on the legislation. The letter endorsed the goal of the bill, i.e., improving computer security, but requested that the bill be amended to preserve the authority of the DCI to safeguard Agency computers. Following hearings held on 18 September 1985, the Subcommittee on Legislation and National Security of the House Government Operations Committee on 23 October conducted a markup of H.R. 2889. In the markup, an amendment in the nature of a substitute was offered by Congressman Brooks and was adopted by the Subcommittee. A copy of the amendment is attached. On 29 October the full House Government Operations Committee approved the bill.

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3. Although H.R. 2889 as approved by the Government Operations Committee did not incorporate our suggested amendment, I believe that the amended bill substantially benefits the Agency by excluding the Agency from most of its provisions. Section 3 of the bill would give the National Bureau of Standards (NBS) sole jurisdiction over the computer security issue in the federal government, but only to the extent the computer and telecommunication systems are subject to the provisions of section 111 of the Federal Property and Administration Act of 1949 (40 USC §759) or chapter 35 of Title 44. The Agency is exempt from the Federal Property and Administration Act by virtue of 40 U.S.C. §474 (17). The Agency is exempt from the provisions of chapter 35 of Title 44, U.S.C., that pertain to computer and telecommunication systems by virtue of 44 U.S.C. §3502. Thus the provisions of section 3 of the bill would not apply to the Agency. The Agency is also exempt from section 4 of the bill, which pertains to the establishment of automatic data processing and related telecommunications standards, because this section amends the Federal Property and Administration Act.

4. The Agency probably would not be exempt from Section 5 of the bill, which requires periodic mandatory training of its personnel in computer security in accordance with regulations issued by OPM.[1] I have discussed with congressional staff the Agency's concern that these regulations would establish training guidelines that would not be sufficient for own security needs. The staff has stated that these guidelines would only establish minimum training standards and that an agency would be free to establish more rigorous training to protect computers that contain highly classified data. In

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[1]An argument could be made that this section does not apply to the Agency since these regulations are to be developed in accordance with section 3 of the Act, which the Agency is exempt from. I am not prepared at this point, however, to certify that such an argument would carry the day.

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addition, you should be aware that OPM on 30 October testified before a subcommittee of the House Science and Technology Committee that this legislative authority was unnecessary and that agency heads should be given some discretion in setting up their training programs. Congressman Glickman agreed with this and stated that provision may be changed.

5. The Agency is also not exempt from section 6 of the bill, which requires that each federal agency identify computer and telecommunication equipment systems that store unclassified but sensitive data. The section also requires that the federal agency establish a plan for the security of those computers storing unclassified data and that such plans be transmitted to NBS and NSA and be subject to disapproval by GSA. I suspect that the impact on us would not be great since our computer systems store mostly classified information.

6. It is my judgment that this legislation will move forward in the House during the next month. The House Science and Technology Committee has completed its hearings on this matter and will markup the legislation in the next few weeks. During these hearings, held on 29 and 30 October, the Administration came out forcefully against the bill. NSA and OPM both stated that the legislation was not necessary and would do more harm than good. More significantly, James Burrow, the Director for the Institute of Computer Science and Technology, NBS, has come out strongly against the bill, as has the Deputy Secretary of Commerce. Despite this opposition, Congressman Brooks is determined to move this legislation forward and the bill will probably pass the House before the end of the year. Prospects for Senate action remain uncertain.

7. Because the legislation will be moving forward, it is necessary that the Agency make a determination whether to take an active role in opposing the bill or amending it further. I would appreciate your review of Sections 5 and 6 of the bill to determine whether these sections would cause significant problems for the Agency. My inclination is to let NSA, OMB, and NBS take the lead in opposing the legislation. If you believe that further amendments to the legislation are in order to protect Agency equities, please let me know so that we can take appropriate action.

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Attachment:
as stated

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